


Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0851-00xx
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		7233.P3001.002	
I hereby certify that this correspondence is being filed via facsimile on May 15, 2006 with Examiner Dung V. Nguyen, Group Art Unit 3723 at facsimile number 703.872.9306 and at central fax number 571.273.8300 Signature <u>Grace Clark</u> Typed or printed name <u>Grace Clark</u>		Application Number	Filed
		10/628,531	7/28/03
		First Named Inventor Simon Palushi	
		Art Unit	Examiner
		3723	Dung V. Nguyen
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		Steven B. Walmsley	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>48,021</u>		Typed or printed name	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		(248) 689,3500	
		Telephone number	
		<u>5/15/06</u>	
		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> Total of <u>2</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9198 and select option 2.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/628,531
Applicant : Simon Palushi
Filed : July 28, 2003
Title : WOOD FLOOR SANDING MACHINE

RECEIVED
CENTRAL FAX CENTER
MAY 15 2006

Art Unit : 3723
Examiner : Dung Van Nguyen

Docket No. : 7233.P3001.002

Certificate of Facsimile Transmission

I hereby certify that this correspondence is being filed via facsimile on May 15, 2006 with Examiner Dung V. Nguyen, Group Art Unit 3723 at facsimile number 703.872.9306 and at central fax number 571.273.8300.

Date: 5-15-06


Grace Clark

Mail Stop AF
Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Office Action mailed August 12, 2005 ("Office Action") Applicant respectfully files herewith a Notice of Appeal and accompanying fee, and requests review of the subject application by a Panel of Examiners under the authority of the New Pre-Appeal Brief Conference Program,¹ and the Extension of the Pilot Pre-Appeal Brief Conference Program². This request is based on a clear error in, and omission of essential elements of, a rejection in an Office Action mailed on January 27, 2006 in this case ("Office Action").

05/17/2006 EFLORES 00000076 500852 10628531

01 FC:1251 120.00 DA

¹ 1296 Off. Gaz. Pat. Office 67 (July 12, 2005)

(<http://www.uspto.gov/web/offices/com/sol/og/2005/week28/patbrief.htm>)

² 1303 Off. Gaz. Pat. Office, (February 7, 2006)

(www.uspto.gov/web/offices/com/sol/og/2006/week06/patexcf.htm)

Appl. No. 10/628,531
May 15, 2006
Pre-Appeal Brief Request For Review

PATENT**Rejection of Claims 2, 3, 6, 10, and 37³**

Applicant's claims 2, 3, 6, 10, and 37 each recite, *inter alia*, a machine comprising at least one of a plurality of floor finishing units in tandem including an abrasive grit different from at least one other of the plurality of floor finishing units. In other words, Applicant's machine has at least one floor finishing unit equipped with an abrasive grit of one type, and at least one other floor finishing unit equipped with another abrasive grit of a different type.

The Office Action alleges that Wilkinson suggests Applicant's claimed invention, except that Wilkinson "does not disclose one floor finishing units (sic) includes abrasive grit different from other (sic) floor finishing unit". The Office Action also alleges that it would have been obvious to "modify the sanding machine of Wilkinson with an abrasive unit including different abrasive grit" of Rivard. (see Rivard col. 4, line 38 – col. 5, line 46, wherein a ScotchBrite™ pad 30 carries small sandpaper sheets 40 to provide different abrasive grits on a single sander).

But even if a combination of Wilkinson and Rivard is possible and discloses what stated in the Office Action, the combination is still missing elements of Applicant's claimed invention. At best, any combination of Wilkinson and Rivard would yield a sanding machine having a plurality of floor finishing units each carrying the same abrasive assembly composed of two different abrasives (ScotchBrite™ & sandpaper). In other words, the combination yields separate floor finishing units each having abrasive pads identical to one another. But that is different from Applicant's claimed invention which recites separate floor finishing units having abrasive grits different from one another.

Thus, the difference between Applicant's invention and the prior art is clear and, therefore, the rejection is clearly erroneous.

³ See Reply To Office Action of November 14, 2005, generally, and pages 13-15 and 18-21 in particular, all of which is incorporated by reference herein.

Appl. No. 10/628,531
May 15, 2006
Pre-Appeal Brief Request For Review

PATENT**Claims 5, 7, and 8⁴**

Claims 5, 7, and 8 also recite, *inter alia*, a machine comprising at least one of a plurality of floor finishing units in tandem including an abrasive grit different from at least one other of the plurality of floor finishing units.

The Office Action alleges that it would have been obvious to provide the sanding machine of Wilkinson, as modified by Rivard, with a frame as disclosed by Tano. Tano, however, does not disclose floor finishers equipped with different abrasive grits and, instead, discloses floor finishers each having the same disk sander 27. Again, even if a combination of Wilkinson and Rivard and Tano is possible and discloses what is stated in the Office Action, the combination is still missing elements of Applicant's claimed invention. Any combination of Wilkinson and Rivard and Tano would yield a sanding machine having a trio of floor finishing units each carrying the same abrasive assembly composed of two different abrasives (ScotchBrite™ & sandpaper). In other words, the combination yields separate floor finishing units each having abrasive pads identical to one another. But that is different from Applicant's claimed invention which recites separate floor finishing units having abrasive grits different from one another.

Again, the difference between Applicant's invention and the prior art is clear and, therefore, the rejection is clearly erroneous.

Claims 13, 15, and 16⁵

Applicant's claims 13, 15, and 16 each recite, *inter alia*, a frame comprising a strut, a beam attached to the strut, and a link pivotably mounted to the beam. Similarly, Applicant's

⁴ See Reply To Office Action of November 14, 2005, generally, and pages 16-21 in particular, all of which is incorporated by reference herein.

⁵ See Reply To Office Action of November 14, 2005, generally, and pages 17-21 in particular, all of which is incorporated by reference herein.

Appl. No. 10/628,531
May 15, 2006
Pre-Appeal Brief Request For Review

PATENT

claim 38 recites, *inter alia*, a machine comprising floor finishing units pivotably mounted to a frame via links pivotably mounted to bosses of the floor finishing units.

The Office Action alleges that Wilkinson, as modified by Rivard, lacks floor finishing units pivotably mounted to a frame, but that Tano has a link (holding cylinder 17) "pivotably mounted" to a beam (holding arm 16) to pivotably mount floor finishing units (cleaner 11) to a frame (truck 1).

But the explicit disclosure of Tano in col. 2, lines 57-59, provides "a holding arm 16 fixed at its one end to the truck 1, and a holding cylinder 17 fixed to the other end of the arm 16" (emphasis added). A fixed link is clearly different from a pivotable link.

Thus, the assertion in the Office Action that Tano has a link pivotably mounted to a beam is clearly erroneous in light of what is actually disclosed in Tano.

Conclusion

Because of clear errors in, and omission of essential elements of, the rejections in the Office Action, Applicant respectfully requests the Panel to take the following action. Within 45 days of the receipt of this request, please indicate the allowability of Applicant's pending claims or otherwise suggest proposed amendments, and re-open prosecution to allow Applicant an opportunity to make minor amendments to clear up matters of form.

PETITION FOR EXTENSION OF TIME

Applicant hereby petitions to extend the time for filing a response to the Office Action dated January 27, 2006 for one month, the period to end on May 27, 2006. The extension fee

Appl. No. 10/628,531


May 15, 2006

Pre-Appeal Brief Request For Review

PATENT

of \$60.00 should be charged to Deposit Account No. 50-0852.

Respectfully submitted,

REISING, ETHINGTON,
BARNES, KISSELLE, P.C.Date: 5/15/06By 
Steven B. Walmsley Reg. No. 48,021
Steven L. Permut Reg. No. 28,388
P.O. Box 4390
Troy, Michigan 48099-4390
(248) 689-3500

Appl. No. 10/628,531
May 15, 2006
Pre-Appeal Brief Request For Review

PATENT

of \$60.00 should be charged to Deposit Account No. 50-0852.

Respectfully submitted,

REISING, ETHINGTON,
BARNES, KISSELLE, P.C.

Date: 5/15/06

By 

Steven B. Walmsley Reg. No. 48,021

Steven L. Permut Reg. No. 28,388

P.O. Box 4390

Troy, Michigan 48099-4390

(248) 689-3500